

109TH CONGRESS
2D SESSION

H. RES. 880

Expressing the sense of the House on the occasion of the first anniversary of the Supreme Court's decision in *Kelo v. City of New London*.

IN THE HOUSE OF REPRESENTATIVES

JUNE 20, 2006

Mr. GARRETT of New Jersey submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing the sense of the House on the occasion of the first anniversary of the Supreme Court's decision in *Kelo v. City of New London*.

Whereas June 23, 2006 is the first anniversary of the United States Supreme Court's decision in *Kelo v. City of New London*;

Whereas the limitations on Government power contained in the Takings Clause of the Fifth Amendment provide an essential safeguard of the property rights of the people of the United States;

Whereas the majority decision in *Kelo* granted local governments broad power to take the property of one private party and transfer it to another private party if the local government decided that the transfer would promote economic development;

Whereas the Supreme Court in *Kelo* once again engaged in the dangerous practice of judicial activism by creating policy, instead of interpreting the Constitution and defending the rights protected by it;

Whereas the *Kelo* court authorized an expanded power to take private property that is far broader than the power the people intended to grant in the Constitution;

Whereas Justice Sandra Day O'Connor, in a dissent joined by three other Justices, suggested that the decision would lead to governments taking from the poor and giving to the rich, saying that “[a]ny property may now be taken for the benefit of another private party, but the fallout from this decision will not be random [because t]he beneficiaries are likely to be those citizens with disproportionate influence and power in the political process, including large corporations and development firms”;

Whereas Justice O'Connor effectively argued that the majority opinion in *Kelo* eliminates “any distinction between private and public use of property—and thereby effectively [deletes] the words ‘for public use’ from the Takings Clause of the Fifth Amendment”;

Whereas the House of Representatives showed its strong disapproval of the *Kelo* court’s interpretation of the Takings Clause by passing, by a vote of 231 to 189, an amendment to the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and Independent Agencies Appropriations Act for Fiscal Year 2006 (H.R. 3058) that prohibited any funding made available under that bill from being used to enforce the judgment of the Supreme Court of the United States in the *Kelo* case; and

Whereas the House of Representatives showed its further support for private property rights in November 2005 by passing the Private Property Rights Protection Act of 2005 (H.R. 4128), which seeks to curb abuse of the Takings Clause by Federal, State, and local Government agencies, with strong bipartisan support and by a vote of 376 to 38: Now, therefore, be it

1 *Resolved*, That the House of Representatives—

2 (1) reaffirms its commitment to protecting private
3 property rights as the foundation of liberty and the pur-
4 suit of happiness in the Constitution; and

5 (2) reiterates its strong support for the Private Prop-
6 erty Rights Protection Act of 2005.

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